

October 23, 2003

Homeland Security Update: New York Communities Still Not Receiving Critical Federal Homeland Security Funds

Executive Summary

On, October 22, 2003, the office of Senator Hillary Rodham Clinton completed a survey of a large sampling of New York state municipalities and counties. Fifty-two communities responded and those responses are nothing short of disturbing. Although all of these communities have taken aggressive steps to address the new demands put upon them by our nation's war against terrorism, much of the very necessary federal financial assistance promised to them has not been delivered.

Earlier this year, the State of New York received \$97 million under the "State Homeland Security Grant Program," at least 80% of which – or approximately \$77 million – the state was required to pass through to local communities no later than mid-August. Given New York's population and the vulnerability of many New York communities, \$77 million is clearly inadequate, but even as to these funds, they are simply not getting to where they are needed most. Indeed, as of the completion date of this survey, **only 3 of 52 responding communities (fewer than 6%) received FY 2003 State Homeland Security Grant Funds.**

As the survey notes, the *counties* contacted received FY 2003 bio-terrorism funding, though even as to that funding, there is a concern that it is inadequate to meet public health preparedness needs. As to the State Homeland Security Grant Program funds, the failure to deliver these funds in accordance with the authorizing legislation points out critical flaws in the mechanism by which this crucial assistance is disbursed.

In a healthy economy, this failure to provide assistance would be frustrating. At a time when these local communities are not only struggling with cost of these new security demands but also with serious budgetary shortfalls related to the nation's economic problems, the failure to provide timely assistance could be disastrous.

Any system of disbursing funds that puts bureaucracy ahead of security is a system begging for change. That is why there must be direct homeland security funding to our communities and first responders. That funding must also be allocated using a threat-based formula and must provide local communities with flexibility in using these resources.

What follows is a complete report on the survey methodology and a discussion of its findings. In addition, this report includes legislative proposals designed to address this problem.

October 23, 2003

Report Finds New York Communities Still Not Receiving Critical Federal Homeland Security Funds

For almost two years, one of the most significant debates concerning our nation's homeland defense is whether homeland security funding intended for local communities and first responders should be provided directly or whether the funding should be passed through the states. Indeed, Congressional hearings have recently been held on this issue, as well on the issue of whether the primary federal homeland security funding provided to our nation's states and local communities should be based on threat, rather than on population alone.

While there is an important role for states to play in the planning and coordination of homeland security efforts, Senator Clinton has long advocated direct funding to many of our nation's communities and first responders, because direct funding is, without question, the most efficient and effective way to get desperately needed federal homeland security resources to those on the front line of our nation's homeland defense. She has also championed the Department of Homeland Security disbursing funds using a threat-based formula, rather than on a formula that is based on population alone. Indeed, more than ten months ago, Senator Clinton introduced the *Homeland Security Block Grant Act of 2003*, which would provide direct and flexible funding, using a threat-based formula, to communities across the nation.

Each and every day since the September 11, 2001 terrorist attacks on our nation, our communities and first responders – our police, fire, and emergency service personnel – have continued to find themselves on the front lines of an unprecedented war against terrorism here at home. These first responders and their communities, in the face of a struggling economy and limited state and local resources, have been forced to bear this extraordinary homeland security burden while continuing, thousands of times each day, to prevent crime and capture criminals, put out fires and promote public safety, and quickly respond to more routine, but nevertheless life-threatening situations, which are part of our everyday lives.

Recognizing this homeland security burden, earlier this year, Congress appropriated more than \$2 billion for what the Department of Homeland Security subsequently designated the "State Homeland Security Grant Program." This funding was made available through the Consolidated Appropriations Resolution for Fiscal Year 2003 (the "FY 2003 Omnibus Appropriations Law"), enacted in February, and the Emergency Wartime Supplemental Appropriations Act for Fiscal Year 2003 (the "April 2003 Supplemental Appropriations Act"), enacted in April. Of this approximately \$2 billion in funding, which the Department of Homeland Security distributed to the states on a *per capita* basis after applying a small-state minimum requirement, New York State received approximately \$97 million in funding, at least 80% of which (\$77 million) was required, by statute, to be passed through to communities within the state no later than the middle of August.

This homeland security report, prepared by the Office Senator Hillary Rodham Clinton, provides information about the status of the disbursement of these funds – referred to by the Department of Homeland Security as “State Homeland Security Grants” – because these funds comprise, by far, the single largest category of homeland security funding that has been appropriated by Congress and has been disbursed to the states, primarily for the benefit of improving homeland defense at the local community and first responder level. As the survey findings make unequivocally clear, however, not only are there not nearly enough resources to meet the significant homeland security needs of local communities and first responders, but the limited funds that have been appropriated are simply not reaching local communities. That must change. That is why Senator Clinton will continue to advocate for additional, direct, flexible, and threat-based funding to our nation’s communities and first responders.

Attachment A to this report provides detailed information about the authorizing legislation for the State Homeland Security Grant Program and other homeland security funding appropriated by Congress to help our communities and first responders, as well as the Department of Homeland Security’s methods for allocating and distributing that funding.

This is the second homeland security survey prepared and issued by Senator Clinton. The first report, issued in January of this year, included the responses of thirty-six communities and showed that seventy percent had not received any federal homeland security funding, other than bioterrorism funding, since the September 11, 2001 terrorist attacks. A copy of that report can be found at <http://clinton.senate.gov/~clinton/homelandsecurityreport.html>.

Survey Methodology

This survey of New York communities has been conducted to assess their homeland security needs and to determine whether they have received Fiscal Year 2003 State Homeland Security Grant funds. More than \$2 billion was provided by Congress in Fiscal Year 2003 for this program in two major appropriations bills, and in doing so, Congress also set forth in statutory language strict deadlines for the distribution of these funds from the Department of Homeland Security to states, and from the states in turn to local governments across the nation. Fifty-eight New York municipalities and counties were contacted.¹ Fifty-two communities (thirty-one municipalities and twenty-one counties) have responded to date.

The survey posed two primary questions to each community. First, had it received any Fiscal Year 2003 federal homeland security funding (either bioterrorism or other homeland security funding) either directly or as pass-through funding from New York State? Second, what were the continuing homeland security needs of the community? The survey results indicate that while local homeland security needs are great, virtually no New York communities have received FY 2003 State Homeland Security Grant funds. Almost all New York communities are still waiting.

¹ All counties in New York State with a population of 100,000 or more and all municipalities with a population of 50,000 or more were contacted. Almost all of these communities would be eligible for direct funding under the “Homeland Security Block Grant Act of 2003,” (S. 87), introduced by Senator Clinton on January 7, 2003.

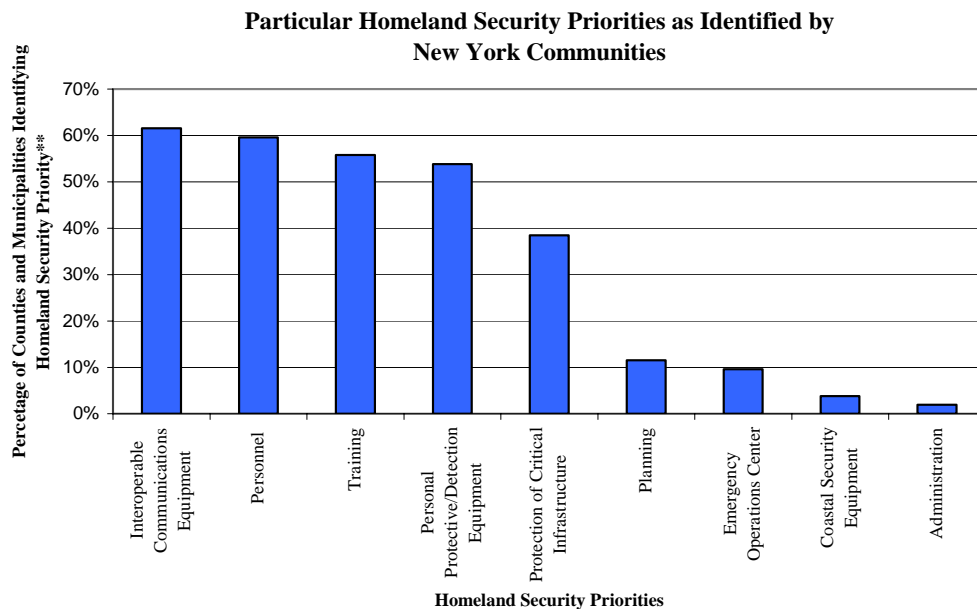
Survey Findings

The survey's findings include the following:

1. Every single community stated that it had critical homeland security needs. Although some communities are in the process of revising their homeland security needs assessments, the most common needs identified were the following: (1) interoperable communications equipment; (2) training; (3) personal protective/detection equipment for first responders; (4) personnel, meaning both additional first responders and planning personnel, as well as overtime reimbursement due to the increased protection of critical infrastructure, responses to perceived threats, and preparedness training for first responders; and (5) protection of critical infrastructure.

It is not surprising that the need for interoperable communications equipment was cited more often than any other need because the ability of first responders to communicate with each other is vital in preparing for, and responding to, a terrorist threat. Indeed, for this reason, it was Congress' expectation and intent that a significant portion of homeland security grant funds would be used to provide and improve interoperable communications systems for first responders.

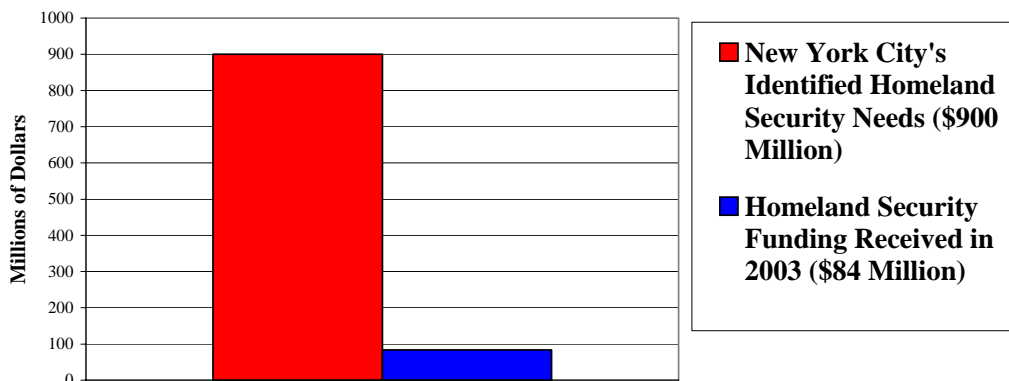
2. As indicated in the bar graph below, other needs identified were planning, emergency operation centers, including the need for incident command center equipment, equipment needs related to coastal security protection, and administration. Regarding planning specifically, a number of communities indicated that only one person, without any administrative assistance, had the responsibility for overseeing the daily operations and planning for all emergency services for the entire community, and, therefore, personnel to assist with planning and operations was very much needed.



** The survey was designed to gather the highest priority needs of local communities. It was not designed to solicit an exhaustive list of needs.

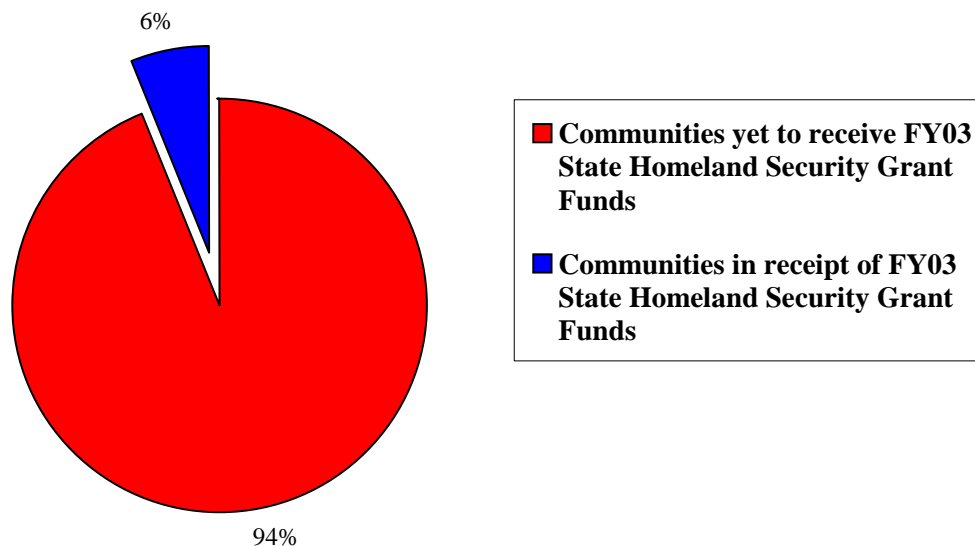
3. Only three of fifty-two communities indicated that they had received what the Department of Homeland Security has designated as FY 2003 State Homeland Security Grant funds. Oneida County reported that within the past week, it had received a partial disbursement of a planning grant in the amount of \$39,000. Westchester County reported receiving within the past month weapons of mass destruction (WMD) first responder equipment, paid for with Fiscal Year 2002, and Fiscal Year 2003, grant funds. Lastly, New York City has received approximately \$34 million in State Homeland Security Grant funds. It has also received approximately \$50 million in high-threat threat urban area funding. Though significant, the \$84 million received pales in comparison to the more than \$900 million in New York City's homeland security needs.

Comparison of New York City Homeland Security Needs and Funds Received to Date



Some New York communities reported awards of funds from other homeland security-related programs. For example, the Department of Homeland Security has announced that Erie County, New York will receive direct funding in the amount of \$6 million in order to develop an interoperable communications demonstration project to enhance communication among first responders. In addition, Nassau County has been awarded a direct \$6 million grant under the Community Oriented Policing Services (COPS) Interoperable Communications Technology Program to help develop a county-wide first responder system for first responders to talk to one another. The U.S. Department of Justice has also announced a total of approximately \$11 million in grants that were awarded directly to twenty New York communities under the COPS Homeland Security Overtime Program to help defray the costs of overtime incurred for homeland security activities, including training and service in the Reserves. Such grants are awarded directly by the federal government, instead of on a pass-through basis.

Receipt of Fiscal Year 2003 State Homeland Security Grants by New York Communities

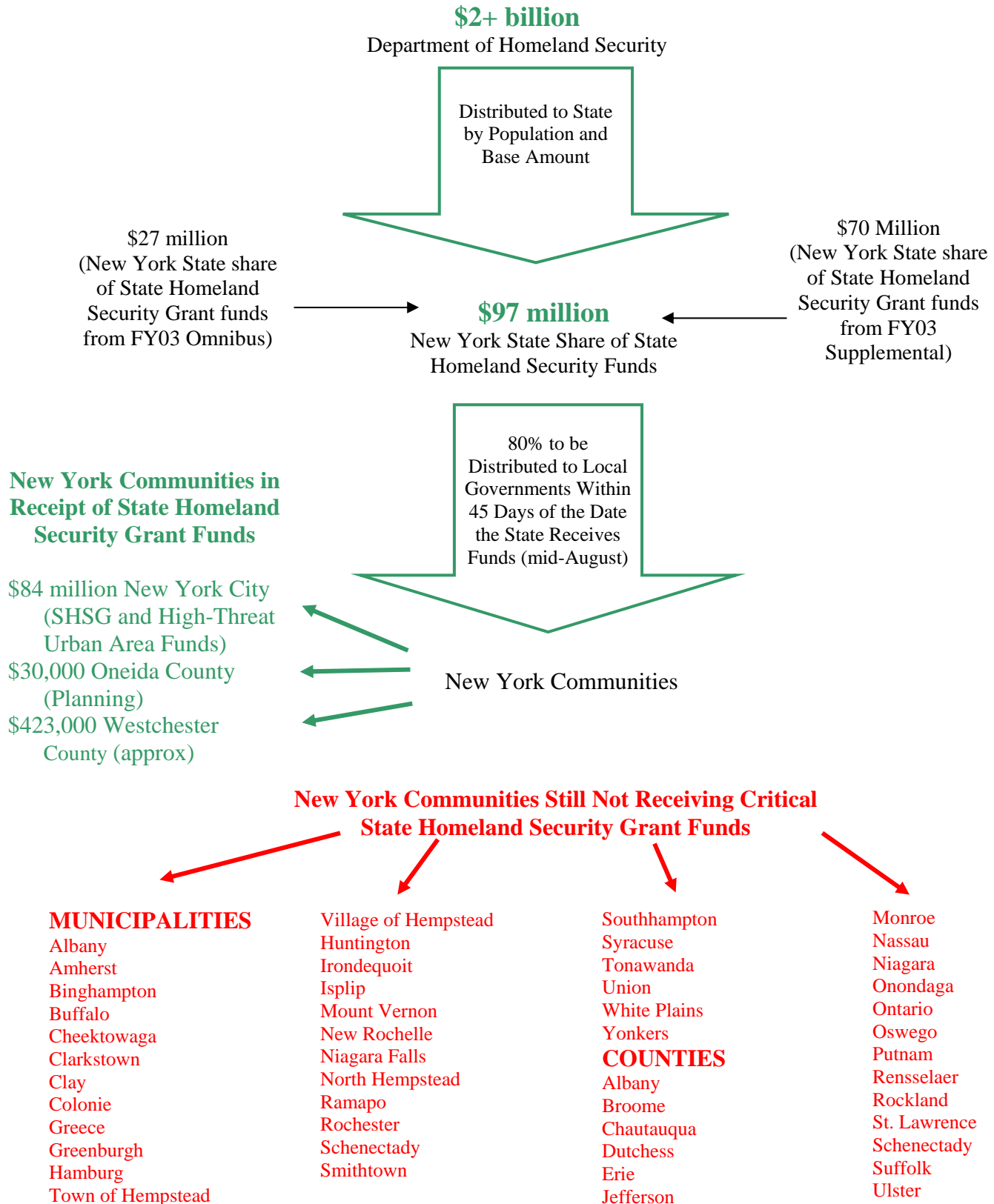


4. The majority of counties reported that they had received equipment in 2003, but in all but one case, the equipment received this year was paid using Fiscal Year 2002, and in some cases even Fiscal Year 2001, funds, not Fiscal Year 2003 funds.
5. A number of communities indicated that they had not been fully reimbursed by the federal government for homeland security support provided in the aftermath of the September 11th terrorist attacks or for heightened threat alerts issued by the Department of Homeland Security. In at least one instance, a New York community, at considerable personnel and resource costs, was asked by the U.S. Coast Guard to help it patrol the Hudson River in the aftermath of the terrorist attacks. That community has yet to receive reimbursement for the assistance provided, which has negatively affected that community's ability to address its local homeland security needs.
6. Almost every county reported having received Fiscal Year 2003 bioterrorism funding, which is formula-based funding through cooperative agreements with the Centers for Disease Control and Prevention (CDC) to upgrade state and local public health jurisdictions' preparedness and response to bioterrorism, outbreaks of infectious diseases, and other public health threats. State public health departments receive this funding, which is to be passed-through to local public health departments and hospitals. (Nationally, the only local governments eligible to receive this funding directly are New York City, Chicago, Los Angeles County, and the District of Columbia.) Although counties are receiving bioterrorism funds, there is a concern that these funds fall far short of the need. In addition, a number of New York hospitals have reported receiving wholly insufficient bioterrorism funding to meet their needs.

Significantly, the authorizing legislation gives the Secretary of Health and Human Services the authority to distribute bioterrorism funds based upon threat and need, that authority has not been exercised. Instead, funds were distributed to states based upon population alone, after a state minimum formula was applied.

Homeland Security Funding

State Homeland Security Grant Program



The following chart contains the results of telephone interviews with each of the local communities listed. Certain specific details collected in the course of the survey have been omitted from this public report for security purposes.

New York Community Homeland Security Survey Responses

New York Community	FY03 Federal State/Local Homeland Security Block Grant Funding Received	FY03 Bio-terrorism Funding Received	Homeland Security Needs
MUNICIPALITIES			
Albany	No	N/A	Interoperable Communications Equipment, Training, Personnel
Amherst	No	N/A	Personnel, Interoperable Communications Equipment, Emergency Operations Center
Binghamton	No	N/A	Protection of Critical Infrastructure, Personal Protective/Detection Equipment, Interoperable Communications Equipment
Buffalo	No	N/A	Personal Protective/Detection Equipment, Training, Personnel
Cheektowaga	No	N/A	Personal Protective/Detection Equipment, Emergency Operations Center/Incident Command Equipment, Protection of Critical Infrastructure, Personnel
Clarkstown	Information Forthcoming	N/A	Training, Personnel, Personal Protective/Detection Equipment, Interoperable Communications

New York Community	FY03 Federal State/Local Homeland Security Block Grant Funding Received	FY03 Bio-terrorism Funding Received	Homeland Security Needs
			Equipment
Clay	No	N/A	Personal Protective/Detection Equipment, Personnel, Planning, Training
Colonie	No	N/A	Coordination/Planning, Protection of Critical Infrastructure
Greece	No	N/A	Interoperable Communications Equipment
Greenburgh	No	N/A	Interoperable Communications Equipment, Personal Protective/Detection Equipment, Personnel
Hamburg	No	N/A	Planning, Interoperable Communications Equipment, Training
Town of Hempstead	No	N/A	Personnel, Personal Protective/Detection Equipment, Protection of Critical Infrastructure
Village of Hempstead	No	N/A	Personal Protective/Detection Equipment, Personnel, Protection of Critical Infrastructure
Huntington	No	N/A	Training, Interoperable Communications Equipment
Irondequoit	No	N/A	Training, Personnel, Personal Protective/Detection Equipment, Interoperable Communications Equipment
Islip	No	N/A	Protection of Critical Infrastructure, Personnel,

New York Community	FY03 Federal State/Local Homeland Security Block Grant Funding Received	FY03 Bio-terrorism Funding Received	Homeland Security Needs
			Personal Protective/Detection Equipment
Mount Vernon	No	N/A	Training, Personal Protective/Detection Equipment, Personnel
New Rochelle	No	N/A	Training, Planning, Personnel, Personal Protective/Detection Equipment, Interoperable Communications Equipment
New York City	Yes	Yes	Personal Protective/Detection Equipment, Training, Protection of Critical Infrastructure, Personnel, Interoperable Communications Equipment, Emergency Operation Center/ Enhancement
Niagara Falls	No	N/A	Personnel, Protection of Critical Infrastructure, Interoperable Communications Equipment, Training, Personal Protective/Detection Equipment
North Hempstead	No	N/A	Planning, Training
Ramapo	No	N/A	Training, Personal Protective/Detection Equipment, Interoperable Communications Equipment
Rochester	No	N/A	Protection of Critical Infrastructure, Personnel
Schenectady	No	N/A	Personal

New York Community	FY03 Federal State/Local Homeland Security Block Grant Funding Received	FY03 Bio-terrorism Funding Received	Homeland Security Needs
			Protective/Detection Equipment, Training, Protection of Critical Infrastructure
Smithtown	No	N/A	Protection of Critical Infrastructure, Coastal Security Equipment, Interoperable Communications Equipment
Southampton	No	N/A	Training, Coastal Security Equipment, Interoperable Communications Equipment, Personnel, Protection of Critical Infrastructure
Syracuse	No	N/A	Training, Personnel, Protection of Critical Infrastructure
Tonawanda	No	N/A	Interoperable Communications Equipment, Personal Protective/Detection Equipment, Training, Personnel
Union	No	N/A	Interoperable Communications Equipment, Training
White Plains	No	N/A	Personal Protective/Detection Equipment, Training, Interoperable Communications Equipment, Protection of Critical Infrastructure
Yonkers	No	N/A	Personnel, Personal Protective/Detection Equipment, Interoperable

New York Community	FY03 Federal State/Local Homeland Security Block Grant Funding Received	FY03 Bio-terrorism Funding Received	Homeland Security Needs
			Communications Equipment, Training, Planning
COUNTIES			
Albany	No	Yes	Training, Interoperable Communications Equipment, Personnel
Broome	No	Yes	Personal Protective/Detection Equipment
Chautauqua	No	Yes	Protection of Critical Infrastructure, Emergency Operations Center, Interoperable Communications Equipment, Personal Protective/Detection Equipment
Dutchess	No	Yes	Training, Personnel
Erie	No	Yes	Protection of Critical Infrastructure, Interoperable Communications Equipment, Training
Jefferson	No	Yes	Interoperable Communications Equipment
Monroe	Information Forthcoming	Information Forthcoming	Interoperable Communications Equipment
Nassau	No	Yes	Interoperable Communications Equipment, Training, Personnel
Niagara	No	Yes	Interoperable Communications Equipment

New York Community	FY03 Federal State/Local Homeland Security Block Grant Funding Received	FY03 Bio-terrorism Funding Received	Homeland Security Needs
Oneida	Yes ¹	Yes	Training, Personal Protective/Detection Equipment, Interoperable Communications Equipment, Personnel, Protection of Critical Infrastructure
Onondaga	No	Yes	Personnel, Training, Interoperable Communications Equipment
Ontario	No	Yes	Interoperable Communications Equipment, Personal Protective/Detection Equipment
Oswego	No	Yes	Interoperable Communications Equipment, Protection of Critical Infrastructure
Putnam	No	Yes	Personal Protective/Detection Equipment, Training
Rensselaer	No	Yes	Personnel, Personal Protective/Detection Equipment
Rockland	No	Yes	Protection of Critical Infrastructure, Personal Protective/Detection Equipment, Interoperable Communications Equipment, Personnel
St. Lawrence	No	Yes	Interoperable Communications Equipment, Training, Personal Protective/Detection Equipment, Personnel

¹ Oneida County received partial payment of a FY 2003 planning grant last week.

New York Community	FY03 Federal State/Local Homeland Security Block Grant Funding Received	FY03 Bio-terrorism Funding Received	Homeland Security Needs
Schenectady	No	Yes	Personnel, Training
Suffolk	Information Forthcoming	Yes	Information Forthcoming
Ulster	No	Yes	Emergency Operations Center, Personnel
Westchester	Yes ²	Yes	Personal Protective/Detection Equipment, Personnel, Administration

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Senator Clinton's Record on Homeland Security

Homeland Security Block Grant Act

In November 2001, Senator Clinton introduced the *Homeland Security Block Grant Act* to provide direct funding, and on the first day of this Congress, she re-introduced this legislation, which provides a threat-based formula for the distribution of federal homeland security funding directly to our communities. The Act provides \$3.5 billion in grant funds for fiscal years 2003 through 2006. With respect to \$3 billion, seventy percent of the funds will be distributed directly, by formula, to any city with a population of 50,000 or more that is in a metropolitan area or any county that is in a metropolitan area, regardless of the size of the county.

The formula includes factors such as the population of a community and its proximity to international borders, facilities containing hazardous chemicals, operating nuclear power plants, major U.S. water and land ports, and Disaster Medical Assistance Teams. The remaining thirty percent will go to the States for the purpose of distributing funds to smaller non-qualifying communities. In addition, this legislation provides \$325 million for States for homeland defense planning, coordination, and implementation; \$75 million for States and local communities for the development and maintenance of first responder communication systems; and \$50 million to States for the development and maintenance of statewide training facilities and best-practices clearinghouses. Regional councils and cooperations, as well as intra-state and multi-state authorities, will be eligible to receive \$50 million for homeland defense planning and coordination. This legislation is supported by The International Association of Fire Fighters (IAFF), the

² Westchester County indicated that it was informed that the equipment it recently received was purchased with FY 2002, as well as Fiscal Year 2003, funds.

National Association of Police Organizations (NAPO), and the U.S. Conference of Mayors (USCM). The *Homeland Security Block Grant Act of 2003* (S. 87), is cosponsored by Senators Boxer, Corzine, Durbin, Feinstein, Kerry, Lieberman, Mikulski, Schumer, and Stabenow. The companion bill (H.R. 1007) was introduced in the House of Representatives by Congressman Michael McNulty.

Domestic Defense Fund Proposal

In early March, Senator Clinton, joined by the USCM, IAFF, NAPO, the New York Uniform Fire Fighters Association, and the New York Sergeant's Benevolent Association, proposed a Domestic Defense Fund that would provide \$5 billion in direct funding to communities and states, \$1 billion in funding for high-threat urban areas, and \$1 billion in flexible emergency assistance funding that the Secretary of Homeland Security could provide to communities, as needed, in the event they are forced to incur extraordinary homeland security costs.

This flexible emergency assistance would expand upon the emergency funding programs already in place within FEMA and the Justice Department and could be released to a community the Secretary believes (1) may be the specific target of a terrorist threat; (2) is the venue of a high-profile terrorist trial, like that of Zacarias Moussaoui; (3) has been asked to assist in federal terrorist investigations, such as when the cities of Lackawanna and Buffalo, York provided significant law enforcement assistance to help in the investigation and arrest of members of a "sleeper" cell; or (4) has been asked to assist federal agencies in providing increased security, such as when the Seattle Police Department, at the request of U.S. Coast Guard, aided the Coast Guard in patrolling the area ship canal. The Secretary would also use Domestic Defense Emergency Funds to reimburse local communities and states for the personnel costs associated with activation of first responders who serve in the Reserves or National Guard.

Fighting for Increased Funding for Our Communities and First Responders

Senator Clinton has consistently fought for increased funding for our communities and first responders to assist them in improving our nation's homeland defense. In addition, Senator Clinton has written Homeland Security Secretary Ridge a number of times urging him to provide direct funding through a threat-based formula that includes the factors in the *Homeland Security Block Grant Act* legislation, such as population density and the presence of critical infrastructure. In recent months, she has also met with Secretary Ridge to discuss these issues, and with FEMA Director Mike Brown to discuss the particular needs of the nation's fire fighters and emergency service workers.

Attachment A

Homeland Security Funding Provided in the Consolidated Appropriations Resolution for FY 2003 and in the Emergency Wartime Supplemental Appropriations Act for FY 2003

Between the Consolidated Appropriations Resolution for Fiscal Year 2003 (the “FY 2003 Omnibus Appropriations Law”) and the Emergency Wartime Supplemental Appropriations Act for Fiscal Year 2003 (the “April 2003 Supplemental Appropriations Act”), Congress appropriated more than \$2 billion for what the Department later termed the “State Homeland Security Grant Program.” Of this approximately \$2 billion in funding, which the Department of Homeland Security distributed to the states on a *per capita* basis after applying a small-state minimum requirement, New York State received approximately \$97 million in funding, at least 80% of which was to be sub-allocated to local communities within the state. Senator Clinton’s second homeland security report provides information about the disbursement of these funds to New York communities.

Detailed information about the authorizing legislation for the State Homeland Security Grant Program and other homeland security funding appropriated by Congress to help our communities and first responders, and the Department of Homeland Security’s allocation and distribution of that funding, is discussed below.³

I. Authorizing Legislation

In February, Congress passed and President Bush signed into law the Consolidated Appropriations Resolution for Fiscal Year 2003, Public Law 108-7 (the “FY 03 Omnibus Appropriations Law”), and in April, Congress passed and President Bush signed into law the Emergency Wartime Supplemental Appropriations Act for Fiscal Year 2003, Public Law 108-11 (the “April 2003 Supplemental Appropriations Act”). Both of these bills were intended to provide homeland security funding for states, local communities, and first responders.

A. FY 03 Omnibus Appropriation Law

Congress appropriated homeland security funding under the FY 03 Omnibus Appropriations Law as indicated below.

- \$1.486 billion for bioterrorism preparedness programs, including \$940 million for state and local public health agencies, and approximately \$546 million for hospitals.
- \$ 1 billion for the Department of Homeland Security’s Office of Domestic Preparedness (ODP), of which \$ 842 million is to be used as follows:

³ Additional information can also be found in “Department of Homeland Security, First Responder Grants: A Summary,” October 20, 2003 CRS Report for Congress, prepared by Shawn Reese, Analyst in American National Government-Government and Finance.

- \$400 million for formula-based first responder equipment grants to States, at least 80% of which must be provided to local governments⁴
 - \$10 million for the electronic dissemination of terrorist threat information
 - \$125 million for the National Domestic Preparedness Consortium (a national network of training facilities)
 - \$112 million for state and local WMD exercise grants
 - \$ 30 million in discretionary training grants
 - \$ 25 million for continuing and emerging training
 - \$100 million for grants to high threat urban areas
 - \$ 23 million for ODP research and development
 - \$17 million for ODP management and administration
- \$ 388 million for Federal Emergency Management Agency's (FEMA's) Emergency Management Planning and Assistance. Of this amount, \$295 million is to be used as follows:
- \$165 million for the Emergency Management Performance Grants program (planning grants)
 - \$60 million for existing Urban Search and Rescue Teams
 - \$25 million for Interoperable Communications Equipment
 - \$25 million for Emergency Operations Center grants
 - \$20 million for Community Emergency Response Teams ("CERT" or Citizen Corps)

In addition to this homeland security funding to assist states, local communities and first responders with their homeland security needs, Congress appropriated \$750 million for the Assistance to Firefighters Program ("FIRE Act grants"); \$400 million for the Local Law Enforcement Block Grant Program; \$651 million for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which \$151 million is for discretionary grants and \$500 million is for formula grants; and \$928.9 million for the Community Oriented Policing Services ("COPS") program, of which \$200 million could be used for the hiring of law enforcement officers, including school resource officers, and of which up to 30 percent shall be available for overtime expenses.

These programs, however, which pre-date the September 11, 2001 terrorist attacks, have specific purposes that are focused primarily not on homeland security, but on assisting our nation's first responders and our local communities and states with

⁴ The Joint Explanatory Statement of the Committee of Conference ("Statement of Managers"), which accompanies the FY 03 Omnibus Law, states that "[t]he conferees recognize that a significant portion of the funds provided under the formula grant program are used to improve voice and data communications interoperability among first responders." See Statement, page 636. Indeed, interoperable communications equipment was the homeland security need mentioned most often by the respondents to Senator Clinton's survey.

traditional first responder tasks, such as fighting and preventing crime, prosecuting criminals, fighting fires, providing emergency medical services, and promoting public safety generally. The homeland security funding that Congress has appropriated since the September 11th attacks was done with a recognition that communities and first responders have had to carry extraordinarily greater and new burdens in the fight against terrorism that that they previously have not had to bear.

B. April 2003 Supplemental Appropriations Act

Congress appropriated homeland security funding under the April 2003 Supplemental Appropriations Act as indicated below.

\$2.23 billion for the Office of Domestic Preparedness as follows:

- \$1.3 billion for the Office of Domestic Preparedness state formula grants, at least 80% of which must be sub-allocated to local governments.

Funds must be disbursed to states in 60 days. Specifically, the Office of Domestic Preparedness was required to make applications available to states within 15 days of enactment (end of April); states were required to submit applications within 30 days of the grant announcement (end of May); ODP was required to act on each application within 15 days of receipt (mid-June); and states were required to pass through to local governments within 45 days of the date the state receives the funds (August). The Act gave the Department of Homeland Security the discretion as what formula to use to allocate these funds to states, although the Department was required to employ a small-state minimum formula.

- \$200 million for formula-based grants to states for critical infrastructure protection, at least 50% of which must be passed through to local governments.

These funds must also go out to states in 60 days (incorporating the same 15-30-15-45 day timelines noted above). The Act also gave the Department of Homeland Security the discretion as to how these funds would be disbursed to states, though the Department was required to employ a small-state minimum. Funds may be used for overtime expenses incurred and related to heightened security levels.

- \$700 million for high-threat urban areas.

The Department of Homeland Security was given the discretion as to how these funds should be disbursed to high-threat urban areas, *i.e.*, to what extent high-threat urban areas would receive funding directly or whether it would be given to states and passed through to local communities, but, in any case, at least 80% of what the states receive must be passed through to

the local governments within 45 days of the date the state receives the funds.

In allocating these funds, the Department of Homeland Security was directed in the legislation to consider credible threat, vulnerability, the presence of critical infrastructure of national importance, population, and identified needs of public agencies. This funding was explicitly not made subject to a small-state minimum requirement. Funds may be used for the protection of critical infrastructure and for operational costs, including first responder personnel overtime as needed and as incurred and as related to heightened security levels. States must pass through the funding to local governments within 45 days of the date they receive it.

- \$30 million for technical assistance to states.

The Supplemental also provided \$109.5 million for interoperable communications equipment, 50% of which is administered through FEMA, and 50% of which is administered through the COPS office.

II. The Department's Allocation of State Homeland Security Grants

A. State Homeland Security Grant Program – Part I

In early March, the Department of Homeland Security announced the “2003 State Homeland Security Grant Program” (SHSGP), which comprises most of the state and local homeland security grant funding appropriated by Congress in the FY 03 Omnibus Appropriations Act. Specifically, the State Homeland Security Grant Program called for a total of \$566 million in funding to the states, based on population. (It appears that the Department combined the following grants: \$400 million for formula-based first responder equipment grants to states; \$112 million for state and local WMD exercise grants; \$30 million in discretionary training grants; and \$25 million for continuing and emerging training grants.)

On March 7, the Department allocated to New York State \$26.5 million, of which \$18.5 million is to be used for equipment, \$4.6 million for WMD exercises, \$1.4 million for training programs, and \$1.86 million for planning.⁵

States were to allocate these grant funds in accordance with their state's approved homeland security strategy. As noted above, the Act required local governments to receive 80% of the equipment funds the states received, though training and exercise funds may be used for state and local first responder training and exercises. Funds that are to be passed through to local governments must have been done so within 45 days of

⁵ Information regarding the date and amount of homeland security funding allocated and disbursed to New York is contained in the U.S. Department of Homeland Security June 17, 2003 Press Release, “Helping New York's First Responders.”

the date a state received the funding from DHS. According to DHS, New York State was awarded this funding in May.

B. Urban Area Security Initiative (“High-Threat Urban Area Grants”) – Part I

On April 8, the Department of Homeland Security announced that the \$100 million for high-threat urban areas provided in the FY 2003 Omnibus Appropriations Law would be distributed as follows: New York City (\$24.76 million); Washington, DC (\$18.08 million); Los Angeles (\$12.42 million); Seattle (\$11.20 million); Chicago (\$10.89 million); San Francisco (\$10.74 million); and Houston (\$8.63 million).

C. State Homeland Security Grant Program – Part II

On April 30, the Department of Homeland Security announced state allocations of funding for Part II of the State Homeland Security Grant Program, the funds for which were appropriated by Congress in the April 2003 Supplemental Appropriations Act. Specifically, the Department combined the \$1.3 billion for state formula grants and the \$200 million for critical infrastructure security, and allocated \$1.5 billion to the states based upon population, after applying a small-state minimum formula.

New York State’s share of the \$1.5 billion as allocated by the Department was \$70.2 million, approximately \$60.8 million for grants to be used consistent with the state’s domestic preparedness plan and \$9.4 million specifically for the protection of critical infrastructure.

Under the Supplemental, at least 80% of the formula funds awarded to New York State (\$70 million) were to be provided to local communities to use for a variety of purposes, including “planning, training, equipment, and exercises, and other costs associated with enhanced security measures deployed during the heightened threat period.”⁶ At least 50% of the critical infrastructure funds awarded to New York State (\$9.4 million) were required to have been passed through to local communities. State applications were to have been submitted to the Department of Homeland Security by May 30 and the Department was required to act upon those applications within 15 days. States were required to sub-allocate funds to local governments within 45 days after their application was approved. Assuming New York and the Department adhered to the statutory guidelines, these funds should have been passed through to local governments no later than mid-August.

D. Urban Area Security Initiative (“High-Threat Urban Area Grants”) – Part II

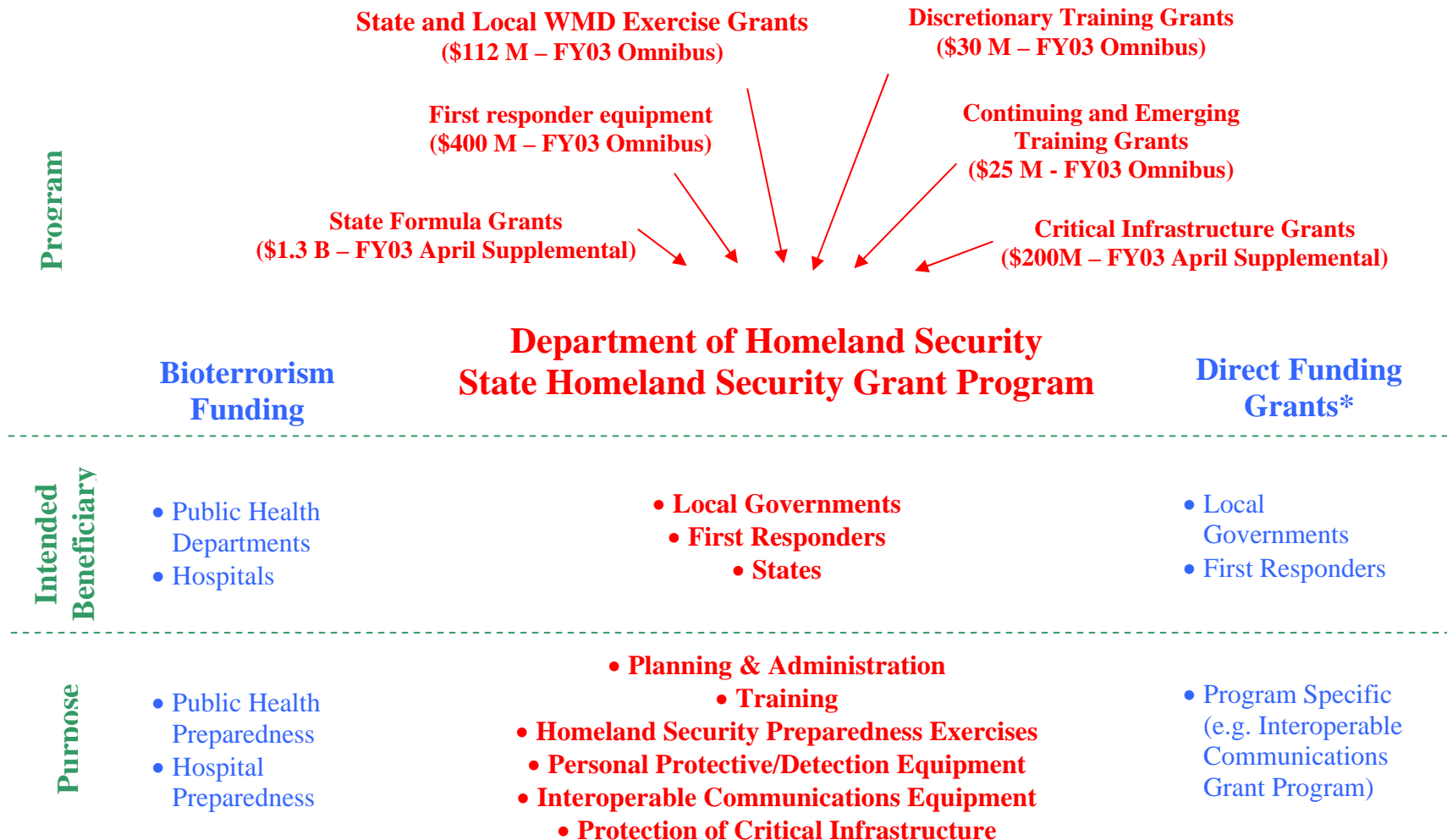
On May 14, DHS announced the allocation of the \$700 million for high-threat urban areas. Of this amount, New York City and “its contiguous counties and mutual aid

⁶ “Department of Homeland Security Announces Funding for States and Localities,” U.S. Department of Homeland Security, Office of Press Secretary, April 30, 2003.

partners” were allocated \$125 million, in addition to \$9.4 million for the New York/New Jersey Port Authority, \$26.6 million for the New York City transit system, and \$30 million for a radiological defense system for the New York/New Jersey metropolitan area. Buffalo and “its contiguous counties and mutual aid partners” were allocated \$10.27 million.

Homeland Security Funding

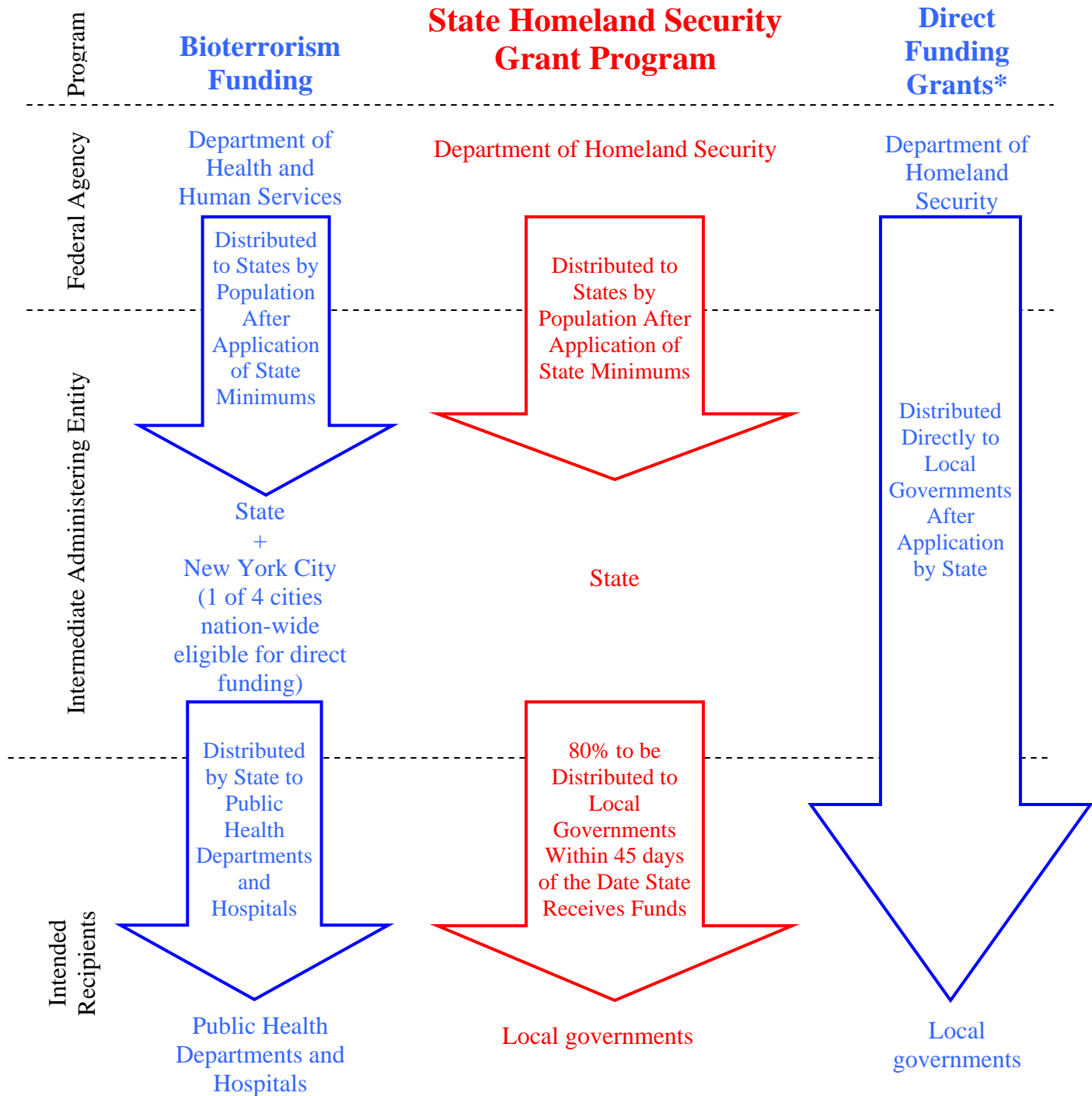
Key Security Programs



* Direct funding grants include Joint Interoperable Communications grants (administered by FEMA) and two Community Oriented Policing Services (COPS) grants, the Interoperable Communications Technology Program (administered by the Justice Department), and the Homeland Security Overtime Program. It is important to note, however, that while the allocation of COPS funding for homeland security overtime costs helps to compensate local communities for real and substantial costs, it takes funding away from the core mission of the COPS program.

First Responders Homeland Security Funding

Funding Pathways



*Direct funding grants include Joint Interoperable Communications grants (administered by FEMA) and two Community Oriented Policing Services (COPS) grants, the Interoperable Communications Technology Program (administered by the Justice Department), and the Homeland Security Overtime Program. It is important to note, however, that while the allocation of COPS funding for homeland security overtime costs helps to compensate local communities for real and substantial costs, it takes funding away from the core mission of the COPS program.